

STATE OF MICHIGAN
COURT OF APPEALS

GRACE E. TINDALL,

Plaintiff-Appellant/Cross-Appellee,

v

MICHAEL E. TINDALL,

Defendant-Appellee/Cross-
Appellant.

UNPUBLISHED

June 23, 2005

No. 225016

Wayne Circuit Court

LC No. 90-026438-DM

Before: Sawyer, P.J., and Markey and Murray, JJ.

MURRAY, J. (*concurring in part/dissenting in part*).

I dissent from the decision to remand this matter for reconsideration of defendant's motion. In my view, we should simply reverse the trial court's order, and remand for further proceedings before Judge Callahan of the Wayne Circuit Court. As the majority recognizes, the constitution only requires judicial disqualification in the most extreme cases. *Cain v Dep't of Corrections*, 451 Mich 470, 514; 548 NW2d 210 (1996).

Here, even without considering that defendant is no longer a prevailing party in his lawsuit against numerous defendants, including the entire Wayne County Circuit Court bench, his motion to disqualify should not have succeeded. Defendant's lawsuit was based upon general court-wide policies regarding Friend of the Court operations, see *Tindall v Wayne Co Friend of the Court*, 269 F3d 533, 536-538 (CA 6, 2001), not against an individual judge for actions taken against defendant.¹ This situation is a far cry from the personal animosity and involvement of the trial judge at issue in *Johnson v Mississippi*, 403 US 212; 91 S Ct 1778; 29 L Ed 2d 423 (1971). A lawsuit against the state's largest Friend of the Court operation, and the state's largest circuit court bench, does not raise the specter of bias or appearance of bias that results from a judge's specific acts against a specific individual, as in *Johnson*. Absent any specific acts alleged by the particular circuit judge, this is not an extreme cases warranting judicial disqualification under the state or federal constitutions.

/s/ Christopher M. Murray

¹ Although defendant was held in contempt for failure to pay child support, and these orders were issued by judges, his legal challenges were to the general procedures employed.